

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14**

Overland Park, Kansas

SYSCO KANSAS CITY, INC¹

Employer

and

Case 14-RC-136240

TEAMSTERS LOCAL 41, affiliated with
the INTERNATIONAL BROTHERHOOD
OF TEAMSTERS²

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act (Act), as amended, a hearing was held on September 23 and 24, 2014, before a hearing officer of the National Labor Relations Board (Board) to determine whether the petitioned-for unit of employees constitutes an appropriate unit for the purpose of collective bargaining. At the close of the hearing, the parties were afforded the opportunity to file briefs addressing the issues raised during the hearing. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Based on a thorough review of the record, I make the following findings:

(1) The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed; (2) The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein;³ (3) The Petitioner is a

¹ The Employer's name appears as amended at the hearing by Board Exhibit 2.

² The Petitioner's name appears as amended at the hearing by Board Exhibit 2.

³ At the hearing, the parties stipulated to the following commerce facts: The Employer is a Missouri corporation engaged in the business of marketing and distributing food service products from its headquarters located at 1915

labor organization which claims to represent certain employees of the Employer; and (4) A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

I. ISSUES

The Petitioner seeks an election in the following unit: All full-time and regular part-time city drivers and helpers employed by the Employer from its facility located at 1915 East Kansas City Road, Olathe, Kansas, but excluding all country drivers, office clerical employees, professional employees, managers, guards and supervisors as defined in the Act, and all other employees.

The Employer contends that the petitioned-for unit is inappropriate because the city drivers and helpers are not a separate appropriate bargaining unit and they share an overwhelming community of interest with all non-supervisory employees employed in the Employer's Transportation Department, including all other route drivers (domicile and country drivers), shuttle drivers, backhaul drivers, fleet mechanics, and equipment handlers who work from the Employer's Olathe, Kansas facility or from the Employer's ten domicile locations in Wichita, Pratt, Russell, Salina, Manhattan and Topeka, Kansas, and in Columbia, Lake Ozark (Versailles), Springfield, and Joplin, Missouri. If an overall Transportation Department unit is not found to be the smallest appropriate bargaining unit, the Employer takes the position that the smallest appropriate unit should be comprised of (1) all route drivers, including domicile, city and country drivers, and shuttle drivers employed at its Olathe, Kansas facility and its 10 domicile locations

East Kansas City Road, Olathe, Kansas. During the past twelve months, a representative period, the Employer in conducting its business operations purchased and received goods and services valued in excess of \$50,000 directly from sources outside the State of Kansas.

or alternatively, (2) all delivery drivers employed at its Olathe, Kansas facility including both city and country drivers.

The Petitioner argues that the petitioned-for unit of city drivers and helpers is an appropriate bargaining unit and that the Employer has failed to meet its burden under *Specialty Healthcare & Rehabilitation Center of Mobile*⁴ to show that additional Transportation Department employees share an overwhelming community of interest with employees in the petitioned-for bargaining unit.

For the reasons discussed in detail below, I find in agreement with the Petitioner, that the unit sought is appropriate. Specifically, I find that the employees in the petitioned-for bargaining unit are readily identifiable as a group and that they share a community of interest under the criteria traditionally utilized by the Board. I also find that the Employer has failed to meet its burden under *Specialty Healthcare & Rehabilitation Center of Mobile* of demonstrating that the additional employees it seeks to include in the bargaining unit share an overwhelming community of interest with employees in the petitioned-for unit. Accordingly, I find that the petitioned-for bargaining unit of employees is appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.⁵

II. FACTS

A. Overview of Operations

⁴ 357 NLRB No. 83 (August 26, 2011).

⁵ The appropriate unit is: All full-time and regular part-time city drivers and driver helpers employed by the Employer from its facility located at 1915 East Kansas City Road, Olathe, Kansas, but excluding all country drivers, domicile drivers, shuttle drivers, backhaul drivers, fleet mechanics, equipment handlers, office clerical employees, professional employees, managers, guards and supervisors as defined in the Act, and all other employees.

The Employer operates a facility located in Olathe, Kansas. From this location, the Employer distributes food products to customers in Kansas and Missouri within a five hour driving radius of the Greater Kansas City metropolitan area. The Employer's customers include but are not limited to restaurants, colleges, nursing homes, and hospitals. The Employer's Olathe, Kansas distribution facility includes a Transportation Department, which is responsible for outbound deliveries, drivers, and fleet management; a warehouse facility, whose employees are currently represented by the United Food and Commercial Workers; a Facilities Maintenance Department; and a Beverage Technical Department whose employees are responsible for servicing the equipment used to transport beverages. In addition to its Olathe facility, the Employer maintains ten domicile locations from which its drivers pick up loaded trucks for delivery to customers in outlying areas. These domicile locations are in Wichita, Pratt, Russell, Salina, Manhattan and Topeka, Kansas, and Columbia, Lake Ozark (Versailles), Springfield, and Joplin, Missouri. The Employer has a facility in only two of these domicile locations, Wichita, Kansas and Springfield, Missouri. In the other domicile locations, the Employer utilizes a parking lot for its domicile and shuttle drivers to pick up and drop off trucks.

The Employer's management structure is as follows. Joe Martines serves as the Employer's President. Larry Waters serves as the Employer's Vice President of Operations. Waters oversees the Employer's Transportation, Facility Maintenance, and Beverage Technical Departments, as well as the warehouse. Matt Creech is the Director of Transportation. Reporting to Mr. Creech are Transportation Supervisors Kevin Chance, Dave Fenton, Jason Sweeney, and Chris Wenger, as well as the Fleet Maintenance supervisor, Jerry Steele. The parties stipulated during the hearing that Creech, Chance, Fenton, Sweeney, and Wenger are all

supervisors within the meaning of Section 2(11) of the Act, in that the aforementioned positions have the authority to hire, fire, assign work or to effectively recommend the same. Accordingly, I find that it is appropriate to exclude Creech, Chance, Fenton, Sweeney, and Wenger from the unit as statutory supervisors.

B. Bargaining History of Petitioned-For Unit

The evidence establishes that from 1975 until a decertification election held on May 27, 2008, Teamsters Local 955, who is not a party to this proceeding, represented the Employer's employees in the petitioned-for bargaining unit at the Olathe facility. On May 27, 2008, following an election conducted pursuant to the Board's Rules and Regulations, Region 17 issued a Certification of Results of Election in Case 17-RD-1768, wherein the bargaining unit was described as follows:

All full-time and regular part-time city drivers who are defined as those who make deliveries to customers within the geographical area of Greater Kansas City and its environs, including but not limited to Merriam, Overland Park, Leawood, Shawnee Mission, Fairway, Kansas City, Lenexa, Olathe and Bonner Springs, are in Kansas; Independence, North Kansas City, Kansas City, Lees Summit, Grandview, Raytown and Blue Springs are in Missouri but EXCLUDING all office clerical employees, professional employees, guards, and supervisors as defined in the Act and all other employees.

Other than the Employer's current bargaining relationship with the United Food and Commercial Workers Union, which represents the Employer's warehouse facility employees, no labor organization has represented the Employer's employees since the May 27, 2008 decertification election.

C. Transportation Department Employees

The Employer employs approximately 125 drivers, which it refers to collectively as "route drivers". Although the Employer asserts that it does not separate its "route drivers" into separate

job classifications, the record evidence establishes that the Employer classifies its route drivers as city drivers, country drivers, and domicile drivers. In addition, the Employer employs a number of shuttle drivers and a single backhaul driver.

1. City Drivers

The Employer employs approximately 40 drivers classified as city drivers. The Employer's city drivers work out of the Employer's Olathe, Kansas facility and deliver to the Employer's customers located within the greater metropolitan Kansas City area. City drivers are under the supervision of Transportation Supervisors Dave Fenton, Jason Sweeney, and Chris Wenger. With limited exceptions, city drivers start their shifts at 5:30 a.m. Each morning, city drivers report to the Olathe facility. Their routes are assigned primarily by routing clerk Julie Zamora through a computer system called RoadNet, although routing supervisor Ian McAlarney also assigns city driver routes. City drivers start and end their work shifts and driving routes at the Employer's Olathe facility. City drivers have a separate seniority list, which is utilized for vacation requests and assignment of open city routes. If a city driver transfers to the country driver classification, he/she is moved to the bottom of the country driver seniority list. City drivers are paid \$21.50 per case of product delivered. City drivers also receive 20 minutes of pay for their pre-trip inspection, 15 minutes of pay for post-trip inspection, and 5 minutes of pay for each stop based on a \$21.50 hourly wage rate. City drivers are also compensated based on one of three mileage bands: 0 to 50 miles, 50 to 87 miles, and greater than 87 miles. Each of the mileage bands has a different compensation rate, but the record does not appear to reflect what the compensation rate is. City drivers receive the same benefits, including medical, dental, vacation, 401(k), and holidays as the Employer's other Transportation Department employees.

2. Country Drivers

The Employer employs approximately 25 route drivers classified as country drivers. The Employer's country drivers also work from the Employer's Olathe facility. Country drivers' routes extend beyond the Greater Kansas City Metropolitan Area to surrounding towns up to 200 miles away. Thus, country routes include deliveries to outlying cities such as Emporia, Topeka, and Lawrence, Kansas and Chilicothe, St. Joseph, and Warrensburg Missouri. Because they have a further distance to travel than city drivers, for the most part, country drivers are scheduled to start their shifts at 4:30 a.m. Country drivers may be required to spend the night at the cities on their routes. Country drivers are supervised by Transportation Supervisors Dave Fenton, Jason Sweeney, and Chris Wenger, and their routes are assigned by routing supervisor McAlarney and routing clerk Zamora. Country drivers have a separate seniority list that is utilized for vacation requests and assignment of open country routes. If a country driver transfers to the classification of city driver, he/she is moved to the bottom of the city driver seniority list. Country drivers are paid by three mileage bands that are different from the mileage bands applicable to the city drivers: 0 to 116 miles, 116 to 166 miles, and greater than 166 miles. Again each compensation band carries a different compensation rate.

Included on the current country driver seniority list is one full time backhaul driver. The backhaul driver works out of the Employer's Olathe, Kansas facility and his primary duty is to retrieve product from local vendors. Country drivers may on occasion perform the backhaul functions, and the backhaul driver occasionally drives a route if the Employer is short on available drivers.

3. Domicile Drivers

The Employer employs approximately 64 domicile drivers who live in and around one of ten domicile locations: Manhattan, Pratt, Russell, Salina, Topeka, and Wichita, Kansas, and Columbia, Joplin, Springfield, and Versailles/Lake of the Ozarks, Missouri, and deliver product to the Employers customers in those areas. The domicile drivers do not come into the Employer's Olathe, Kansas facility to pick up loaded trucks or to drop off empty trucks. Instead, shuttle drivers, who are discussed in more detail in the following section, pick up trucks loaded with product at the Olathe facility and drop the trucks at the domicile location for pick up by the domicile driver. All but two of the Employer's domicile locations consist solely of parking lots that the Employer rents from other entities. The Employer has physical structures at its domicile locations in Wichita, Kansas and Springfield, Missouri. Domicile route drivers report directly to one of four transportation supervisors, depending on their location: Kevin Chance, Dave Fenton, Jason Sweeney, and Chris Wenger. Domicile drivers appear to be compensated pursuant to the same mileage bands established for country drivers. Domicile drivers also receive compensation for hooking and unhooking their trailers at their respective domicile locations, a function that city and country drivers are not required to perform. Domicile drivers receive the same fringe benefits as other Transportation Department employees.

4 . Shuttle Drivers

The Employer employs approximately 21 shuttle drivers who perform work in conjunction with the domicile drivers. Like the Employer's domicile drivers, the shuttle drivers live in or around one of the Employer's ten domicile locations. In the evening, shuttle drivers transport the domicile drivers' empty trailers from their respective domicile locations to the

Employer's facility in Olathe. At the facility, shuttle drivers retrieve paperwork and exchange empty trailers for trailers filled with product, and return those full trailers to their domicile locations for pick-up by the domicile drivers. The following morning, the domicile route drivers "hook on" to the loaded trailers dropped by the shuttle drivers at the domicile location and the domicile drivers then deliver the product to customers in their respective areas. Shuttle drivers are paid a straight hourly rate and receive the same benefits as other employees in the department.

5. Non-Driver Transportation Job Classifications

Within the Employer's Transportation Department, the Employer employs at its Olathe facility driver helpers, fleet mechanics, and equipment handlers.

a) Driver Helpers

Driver helpers are drivers who have been hired by the Employer and are in the process of obtaining their driver's license or CDL. During the time period the driver helper is waiting to obtain his or her license, the helper is paired with another driver who already has his or her CDL license. Helpers work from the Employer's Olathe facility and primarily assist city drivers. Once the helper obtains their license, they are assigned their own route for delivery. There is no record evidence regarding how long it generally takes a driver helper to transition to a driver position. The Petitioner seeks to include these employees in the petitioned for bargaining unit.

b) Fleet Mechanics and Equipment Handlers

The Employer employs approximately seven fleet mechanics and four equipment handlers who report directly to Supervisor of Fleet Maintenance Jerry Steele.⁶ Steele reports to the

⁶ Equipment handlers are also referred to as fuelers, hostlers and yard spotters.

Director of Transportation, Mechanics work out of a five-bay shop that is separately located on the Employer's Olathe property. Mechanics perform all service and maintenance on the Employer's vehicles and trailers. Mechanics are paid a straight hourly wage rate of approximately \$20 to \$25 per hour and receive the same benefits as all other hourly employees. Equipment handlers hook, unhook, wash, and fuel trailers at the Employer's Olathe facility. Two additional equipment handlers report to supervision within the warehouse. Equipment handlers are paid an hourly wage rate of approximately \$14 to \$18 per hour and receive the same benefits as all other hourly employees in the department.

III. ANALYSIS

The Board's traditional approach for determining the appropriateness of a bargaining unit is to examine the petitioned-for unit first. The Board will first assess whether the petitioned-for unit is identifiable as a group and then assess whether those employees share a community of interest using traditional criteria, in order to determine whether the petitioned for bargaining unit is appropriate. The general community of interest test utilized by the Board includes evaluation of such factors as functional integration, frequency of contact with other employees, employee interchange, degree of skill and common functions, commonality of wages, hours, and other working conditions, and shared supervision. *Publix Super Markets, Inc.*, 343 NLRB 1023, 1024 (2004). The continued use of this test was reiterated in *Specialty Healthcare*:

"In making the determination of whether the proposed unit is an appropriate unit, the Board's 'focus is on whether the employees share a 'community of interest.'"
NLRB v. Action Automotive, Inc. 469 U.S. 490, 491 (1985). In determining whether employees in a proposed unit share a community of interest, the Board examines whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms

and conditions of employment; and are separately supervised.” 357 NLRB No. 83, slip op. at 9 (August 26, 2011), citing *United Operations, Inc.*, 338 NLRB 123, 123 (2002).

A bargaining unit need not be the only appropriate unit or the ultimate unit or the most appropriate unit. The Act requires only that the unit be appropriate to ensure the fullest freedom in exercising the rights guaranteed by the Act. *Bartlett Collins Co.*, 334 NLRB 484 (2001); *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950), enf’d. 190 F.2d 576 (7th Cir. 1951). There is typically more than one way to group employees for purposes of collective bargaining. *General Instrument Corp. v. NLRB*, 319 F.2d 420, 422-423 (4th Cir. 1963), cert. denied 376 U.S. 966 (1964). In determining whether a petitioned for unit is appropriate, the unit sought by the petitioning union is a relevant consideration. *E.H. Koester Bakery & Co.*, 136 NLRB 1006 (1962).

If the petitioned-for unit is shown to be an appropriate bargaining unit, under *Specialty Healthcare* the burden shifts to the Employer to demonstrate that the additional employees it seeks to include share an overwhelming community of interest with the petitioned-for employees, such that there “is no legitimate basis upon which to exclude certain employees from the larger unit because the traditional community-of-interest factors overlap almost completely.” *Id.*, slip op. at 11-13, and fn. 28. If the Employer can meet this burden, the Board finds the petitioned-for unit to be inappropriate.

A. The petitioned-for unit is readily identifiable

The employees in the petitioned-for unit are readily identifiable as a group. The record set forth at the hearing established that the Employer operates its business in a manner that clearly defines and differentiates between its different classification of drivers and the work functions that they perform. Specifically the city drivers are clearly defined by the type of route

assigned to each driver in their classification and the geographical proximity of the route to the Greater Kansas City Metropolitan geographical area. The city drivers are clearly distinguishable as a group from the Employer's other classifications of drivers by their separate job classification, type of driving route they are assigned and geographical area in which they work, a separate seniority list, a separate city driver work schedule, and a distinct compensation scheme.

B. The petitioned-for unit shares a community of interest

The record establishes that the petitioned for bargaining unit of city drivers and helpers share a community of interest based on operational lines established by the Employer, including a specific job classification, specific type of driving route and geographical area assigned to city drivers, separate seniority lists and work schedules from other drivers, and a distinct compensation package. In addition, the record establishes daily interaction between city drivers and helpers in that while awaiting the appropriate license, driver helpers ride with and assist city route drivers in their city routes. The city driver and driver helper classifications share the same supervision, same benefits, and same pay structure. Moreover, driver helpers are generally in their positions a limited period of time until they are qualified to become city drivers.

Additionally, where a bargaining history exists the Board has been clear that bargaining history is a relevant and substantial factor in the community of interest analysis. *Canal Carting, Inc.*, 339 NLRB 969 (2003); *Ready Mix USA, Inc.*, 340 NLRB 946 (2003). Historically, from 1975 until May 2008, the Employer's city drivers and driver helpers were included in a separate collective bargaining unit. Based on the totality of the evidence, I find that city route drivers and

driver helpers share a community of interest under the Board's traditional framework distinct from the Employer's other drivers and Transportation Department employees.

Based upon my finding that the petitioned-for bargaining unit constitutes a readily identifiable group and my further finding that the petitioned-for unit shares a community of interest separate from the Employer's other employees, I find that the petitioned for bargaining unit is an appropriate bargaining unit for the purposes of collective bargaining.

C. The Employer has failed to carry its burden under *Specialty Healthcare*

Having concluded that employees in the petitioned-for unit are readily identifiable as a group and that they possess a community of interest separate from other employees, I turn to the question of whether the additional employees within the Employer's Transportation Department share an overwhelming community of interest with city drivers and driver helpers and therefore require a finding that there is no legitimate basis to exclude them from the unit.

An overwhelming community of interest exists where the unit sought "fractures" an appropriate unit, seeking only an "arbitrary segment" of that unit and there is no rational basis for including some, but excluding others. *Odwalla, Inc.*, 357 NLRB No. 132 (2011), slip op. at 5; *Specialty Healthcare* at slip op. 13. *The Neiman Marcus Group, Inc. d/b/a/ Bergdorf Goodman*, 361 NLRB No. 11 (2014). I find that the record herein does not support a finding that other groups of employees share an overwhelming community of interest with the Employer's city drivers and driver helpers.

1. No overwhelming community of interest with country drivers

The Employer has failed to establish that significant interchange exists between city and country drivers. During the hearing, the Employer offered general testimony that it frequently

utilizes city drivers on country routes as well as assigns country drivers to city routes.. To support this position, the Employer offered 29 examples of temporary interchange of city and country drivers between May 2 and September 11, 2014. However, I find that the Employer's evidence lacks substantial persuasive value as the Employer failed to place its examples of interchange into context to establish that substantial interchange occurs, rather than isolated instances of interchange. The limited examples of interchange cited by the Employer over a 19 week period, considering the number of drivers and driving routes completed with that time period, is not substantial, and appears to involve less than 1% of routes driven during the given time period. Furthermore, a substantial number of the 29 examples of interchange appear to involve a single driver who volunteered to exchange routes on numerous occasions.. The Board places less weight on incidences of voluntary interchange. See *Red Lobster*, 300 NLRB 908, 911 (1990). In addition, the Employer did not provide an explanation or details concerning the reasons or circumstances for the interchange examples it cited. I find that the Employer failed to show a significant or substantial amount of interchange between city drivers and country drivers.

In addition, city drivers have little to no interaction with country drivers at the Employer's Olathe facility. Based on the distance they are required to drive on their routes, country drivers are primarily scheduled to depart the Employer's facility well in advance of the time that city drivers are scheduled to arrive at the Olathe facility. Because of the differences in work schedules of city and country drivers, the Employer generally conducts separate employee meetings for city drivers and country drivers. The record does not contain evidence of regular contact between city drivers and country drivers. Although there is evidence that driver helpers

may assist country drivers, this appears to be limited because of the Employer's preference that driver helpers remain close to its Olathe facility during their training period.

Each driver classification performs a similar task, product delivery, to different geographical areas. However, city and country drivers do not possess an operational nexus with each other when it comes to the function of the Employer's business, and each performs within a separate geographic area without their work being functionally connected.

Thus city drivers and country drivers have different types of routes, with country drivers assigned routes extending up to 200 miles outside the Greater Kansas City area while city drivers remain within the Kansas City metro area. Certain country driver routes involve an overnight stay, while city driver routes do not. While both city drivers and country drivers are paid hourly, they are compensated based on different payment measurement systems. City and country drivers have different mileage bands establishing different standards for compensation for city and country drivers. Country drivers are eligible for additional pay contingent upon driving an overnight route. With an overnight country route, country drivers receive a flat per diem of \$85 or alternatively, their hotel bill is paid by the Employer and the drivers receive \$30 for food. City and country drivers are also considered distinct and separate for the purpose of seniority. While city and country drivers share supervision, enjoy the same fringe benefits, and have the same general driving skills, there are substantial differences that exist between the two groups that are reflected in the Employer's operational structure which is described above. For these reasons, although there are similarities between the city and country drivers, I find that the Employer has not met its burden of establishing an overwhelming community of interest between the city and country drivers so that the petitioned-for bargaining unit is not appropriate.

2. No overwhelming community of interest with domicile drivers/shuttle drivers

There is even less record evidence to support the assertion that an overwhelming community of interest exists between domicile drivers, shuttle drivers and city drivers and helpers. There is no evidence of interchange or interaction between the two groups. City drivers and helpers primarily perform all of their duties within the Greater Kansas City area. Domicile drivers work in and around the Employer's ten domicile locations located in other cities and do not come into the Olathe facility. While shuttle drivers do come to the Employer's Olathe facility, the shuttle drivers are at the facility at night while city drivers are not at the facility. Moreover, the work of the shuttle drivers is functionally integrated with that of the domicile drivers. The domicile drivers have a separate compensation scheme from city drivers, and a separate seniority list. Although the city drivers and domicile drivers share some supervision, have similar skills, and enjoy the same fringe benefits, the evidence is insufficient to find that the exclusion of shuttle drivers fractures an appropriate unit, or that the Employer has met its burden of establishing an overwhelming community of interest between employees in the petitioned-for bargaining unit and the domicile drivers and shuttle drivers so that the petitioned-for bargaining unit is not appropriate.

3. No overwhelming community of interest with fleet mechanics and equipment handlers

Fleet mechanics and equipment handlers perform functions separate and distinct from those performed by city drivers and driver helpers. Fleet mechanics work in a nearby shop on the Employer's Olathe property and perform all necessary repair and maintenance on the

Employer's vehicles. Drivers do not perform any of their own repair or maintenance. Interaction between the petitioned-for employees and fleet mechanics is limited to incidents when the city drivers and driver helpers bring issues they are having with their vehicles to the attention of the mechanics. The record does not contain any evidence of interchange between the classifications. Both groups report to separate supervision and maintain different hours with mechanics working "around the clock." Similarly, city drivers and helpers have limited interaction with the Employer's equipment handlers. The equipment handlers duties include hooking/unhooking, fueling and washing trailers. The record does not contain evidence that drivers or helpers perform these functions. There is no evidence of interchange. City drivers and driver helpers perform a vast majority of their duties away from the Employer's facility while the fleet mechanics and equipment handlers spend their entire shifts at the Employer's Olathe facility. Mechanics and equipment handlers are both compensated in a different manner than employees in the petitioned-for unit and have separate supervision. Although the employees receive the same standard benefits as all other hourly employees, the evidence as a whole is insufficient to support a conclusion that fleet mechanic and equipment handlers share an overwhelming community of interest with employees in the petitioned-for unit.

IV. CONCLUSION

For the above reasons, I find that the petitioned-for unit is appropriate and the Employer has failed to meet its burden under *Specialty Healthcare* that other groups of its employees share an overwhelming community of interest with the petitioned-for bargaining unit. Accordingly, I find that it is appropriate to proceed to an election in the petitioned-for bargaining unit herein found appropriate.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned, among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are all employees employed in the bargaining unit during the payroll period ending immediately preceding the date of this Decision (payroll cutoff date), including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States who are employed in the unit may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **TEAMSTERS LOCAL 41, affiliated with the INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

NOTICES OF ELECTION

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting. An employer shall be deemed to have received copies of the election notices unless it notifies the Regional Office at least five working days prior to 12:01 a.m. of the day of the election that it has not received the notices. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB. v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is directed that **two** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The list must be of sufficiently large type to be clearly legible. The undersigned shall make this list available to all parties to the election.

In order to be timely filed, such list must be received in Subregion 17's Office, Suite 100, 8600 Farley, Overland Park, Kansas 66212, on or before **October 10, 2014**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of two copies, unless the list is to be submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized. If you have questions, please contact the Regional Office.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5:00 p.m. (ET) on **October 17, 2014**.

This request may be filed electronically through E-Gov on the Agency's website, www.nlrb.gov, but may not be filed by facsimile. Refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in filing electronically. Guidance for E-filing can also be found on the National Labor Relations Board web site at www.nlrb.gov. On the home page of the website, select the E-Gov tab and click E-Filing. Then select the NLRB office

for which you wish to E-File your documents. Detailed E-filing instructions explaining how to file documents electronically will be displayed.

SIGNED at Overland Park, Kansas, this 3rd day of October 2014.

/s/ Naomi L. Stuart

Naomi L. Stuart, Officer In Charge
National Labor Relations Board
Subregion 17
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Overland Park, Kansas 66212